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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/636,058	08/09/2000	John T. Keech	81280THC	5136
1333	7590	12/02/2003	EXAMINER	
PATENT LEGAL STAFF EASTMAN KODAK COMPANY 343 STATE STREET ROCHESTER, NY 14650-2201			ST CYR, DANIEL	
			ART UNIT	PAPER NUMBER
			2876	

DATE MAILED: 12/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 09/636,058	Applicant(s) KEECH ET AL	
	Examiner Daniel St.Cyr	Art Unit 2876	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 September 2003.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some    c) ☐ None of:  
         1. ☐ Certified copies of the priority documents have been received.  
         2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
         3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
     \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
     a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

### DETAILED ACTION

1. Receipt is acknowledged of the response filed 09/02/03.

#### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).
4. Claims 1-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al, US Patent No. 5,198,907, in view of Longacre, Jr. et al, US Patent No. 5,591,956, both cited by the applicant.

Walker et al disclose a method and apparatus for automatically locating predefined exposure area in a scan image comprising: exposing a photographic element to form a latent image of a reference calibration target having a primary image symbol 34 with a finder feature 31/32 and known special relation between a reference calibration patch and the finder feature of

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the primary image symbol; processing the photographic element to form a density image from the latent image (in the processing operation); scanning the density image to produce a digital image (by the scanner 12); locating the finder feature of the primary symbol; and locating the reference calibration patch relative to the finder feature in the digital image (see figure 2 and col. 4, line 12+).

Re claims 2 and 24, the known special relation is the location of the center 36 of the calibration patch (see figure 2).

Re claims 3 and 8, calculating a transformation representing the spatial distortion of the calibration target and using the transformation to locate the target (coordinates) (see col. 4, lines 31-47).

Re claims 4-6 and 9-11, the transformation is an affine linear transformation and a scaling (Cartesian coordinates) (see col. 4, lines 1-10)

Re claims 12 and 28, wherein the photographic element is a film strip 44.

Re claim 13, wherein the processing step employs a standard photographic process (see figure 1).

Walker et al fail to disclose or fairly suggest that the calibration target includes a two-dimensional bar code

Longacre, Jr. et al disclose a two-dimensional data encoding structure and symbology for use with optical readers comprising: a 2D bar code symbol 10 having a finder feature 20, an orienting structure 30 which includes L-shape blocks 31-34. (See figures 1, 2).

In view of Longacre et al' s teachings, it would have been obvious for a person of ordinary skill in the art at the time the invention was made to modify the system of Walker et al

by substituting L-shape registration marks with the 2D bar code structure of Longacre et al to facilitate image location. Such modification would provide image orientation, start code, and frame reference to rapidly locate the image. Therefore, it would have been an obvious extension as taught by Walker et al.

Re claims 14-17, Walker et al as modified by Longacre et al fail to disclose or fairly suggest the specific type of photographic process.

However, such limitation falls within the engineering design choice.

It would have been obvious for an ordinary artisan at the time the invention was made to modify the photographic process into a specific process, such as alternate process, dry process, thermal treatment process, high-pressure treatment process, for processing the photographic element. Such modification would provide means to achieve a specific desire results. Therefore, it would have been an obvious extension as taught by Walker et al as modified by Longacre et al.

Re claims 18-20, and 29-31, Walker et al as modified by Longacre et al fail to disclose or fairly suggest the specific type of scanner and the specific photosensitive layer.

However, these limitations fall within the engineering design choice.

It would have been obvious for an ordinary artisan at the time the invention was made to employ any scanner for scanning the image and using any type of strip for providing the image, wherein the scanner and the type of photosensitive layer are known and available in the art and fail to provide any unexpected results. Therefore, it would have been an obvious extension as taught by Walker et al as modified by Longacre et al.

Re claim 33, Walker et al as modified by Longacre et al fail to disclose or fairly suggest having 23 reference patches and 6 bar codes.

However, this is a mere duplication of elements.

It would have been obvious for an artisan to modify the system of Walker et al as modified by Longacre et al into the specific number of patches and the number of barcode to achieve a specific data density so as to facilitate calibration. Therefore, it would have been an obvious extension as taught by Walker et al as modified by Longacre et al. Furthermore, it has been held that mere duplication of the essential working parts of a device involve only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

***Response to Arguments***

5. Applicant's arguments filed 09/02/03 have been fully considered but they are not persuasive. (see examiner remarks).

**REMARKS:**

6. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Furthermore, the examiner respectfully request the applicant to read Longacre, Jr. et al, col. 2, line 35+. The applicant argument is not persuasive. Refer to the rejection above.

*Conclusion*

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

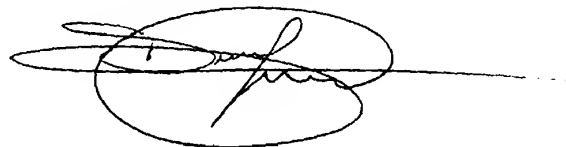
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel St.Cyr whose telephone number is 703-305-2656. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G Lee can be reached on 703-305-3503. The fax phone number for the organization where this application or proceeding is assigned is 703-308-7721.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

Daniel St.Cyr  
Primary Examiner  
Art Unit 2876

A handwritten signature in black ink, appearing to read 'Daniel St.Cyr', is written over a large, loopy circular flourish.

DS

11/18/03